

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Before discussing each of the rejections, the Examiner is respectfully invited to review Examples 9 and 10 of U.S. Patent No. 5,888,497, which issued from the 08/745,063 application from which priority is claimed. These examples show the efficacy of cultured medium such as is described in the claims, and clearly these examples provide ample guidance for making and using the cultured medium, e.g., in frozen form as in Example 10 and as claimed in, e.g., claims 121 and 122. Claims that do not include a reference to 30 kd are clearly supported by the specification of the '063 application which was filed on November 7, 1996, i.e., before publication of the Jain PCT. Thus, it is respectfully submitted that the 35 U.S.C. §112, first paragraph rejections of claims be withdrawn.

Since the '063 application was filed prior to the Jain PCT application, and since the claims are clearly enabled, the claims are entitled to a filing date at least as early as November 7, 1996, which is sufficient to antedate the Jain PCT.

Furthermore, the Examiner's attention is drawn to U.S. Patent No. 6,224,912, which the Examiner allowed with claims that were directed in part to compositions prepared by culturing cancer cells entrapped in structures and recovering a product after a 30 kd filtration step. The pending claims are related but are based on the disclosure of an earlier filed priority application and are directed to the medium in which such structures have been cultured without a 30 kd filtration step. It is respectfully submitted that the priority of the present application overcomes the rejections based on the Jain PCT as to certain claims, or, alternatively, claims that refer to the 30 kd aspect have been previously considered to be allowable by the Examiner in related patent applications. Thus, it is believed that the 35 U.S.C. §103(a) and obviousness-type double patenting rejections have been overcome.

Applicants reserve the right to file a terminal disclaimer to overcome the obviousness-type double patenting rejection of claims 115-122 over US 6,224,912; however, it is respectfully submitted that at least the claims without the 30 kd subject matter should not be subject to this rejection.

Accordingly, it is believed that the present application is in condition for allowance.

In view of the foregoing it is respectfully submitted that all rejections have been overcome and that the application is in condition for allowance.

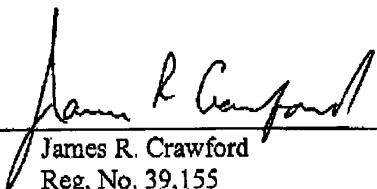
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Early issuance of a Notice of Allowance is earnestly solicited.

If any additional fees are due, the Commissioner is authorized to charge deposit account no. 50-0624.

Respectfully submitted,

FULBRIGHT & JAWORSKI, LLP

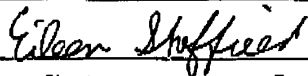
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I hereby certify that this correspondence is being deposited with the United States Postal Service by facsimile 1-703-872-9306 in an envelope addressed to Commissioner for Patents, P. O. Box 1450, Alexandria, VA, 22313-1450 on the date indicated below.

Eileen Sheffield



6/30/03

Signature

Date June 30, 2003